

REMARKS/ARGUMENTS

Claims 18-38 stand in the present application, claims 30 and 31 having been amended. Reconsideration and favorable action is respectfully requested in view of the following remarks.

In the Office Action, the Examiner is continuing to reject claims 30 and 31 under 35 U.S.C. § 101. Apparently the Examiner is giving no weight to the last four words of each of claims 30 and 31 wherein it is clearly stated that the messaging platform of the respective independent claim 18 and 28, from which claims 30 and 31 depend, is part of the claim. In any event, Applicant has amended the claims to more conventionally recite that claims 30 and 31 depend from claims 18 and 28, respectively. Accordingly, the claims as amended are believed to overcome the Examiner's 35 U.S.C. § 101 rejection of claims 30 and 31.

In continuing to reject all claims over the previously cited art, the Examiner has missed the point of Applicant's previously submitted arguments. More particularly, Applicant's inventions are directed to a messaging platform, i.e., for storing email or voice mail (see, *inter alia*, the present Title Of The Invention, Abstract and specification at page 1, lines 1-11), while the cited Obhan reference is clearly not directed to a messaging platform but instead is directed to methods for managing subscriber load of a wireless communication system, i.e., the loading of real time callers accessing the spectrum of the wireless communication system (see, *inter alia*, Obhan at the Title Of The Invention, Abstract, Technical Field at column 1, lines 14-20, and Summary Of The Invention at column 2, lines 36-46).

The Examiner takes umbrage simply because Applicant correctly points out that Obhan is not directed to an improved messaging platform and hence does not teach or suggest the claimed structure or method of operation of Applicant's improved messaging platform. The Examiner erroneously asserts that Obhan is directed to a messaging platform even though not a single claim mentions a messaging platform – the Examiner fails to grasp that just because a reference that is directed to the subscriber loading of a wireless communication system incidentally includes a messaging platform that does not mean that the messaging platform is the thrust of the reference.

The distinction between Applicant's inventions and Obhan is pointed out by the fact that the Title, Abstract and each and every claim of the present application are directed to a messaging platform while the Title, Abstract and each and every claim of Obhan do not even mention a messaging platform. It is hard to fathom how Obhan can be directed to an improved messaging platform yet not include a single claim that even mentions a messaging platform. Indeed, the portions of Obhan cited to by the Examiner either do not mention a messaging platform or only incidentally refer to the operation of a conventional messaging platform when discussing the operation of the claimed subscriber loading system.

In discussing our prior response the Examiner at page 3 of the Office Action cites column 2, lines 35-60 of Obhan as supporting his conclusion that the reference is “managing the loading of a messaging platform.”

Thus, in order to overcome the above described shortcomings, among others, a Spectrum Yield Management

(SYM) system and method of operation tracks spectrum usage in real-time. Spectrum usage is measured in both real-time usage (of active subscribers) and in potential usage (of inactive subscribers that have registered with the system). Based upon the actual subscriber loading levels, potential subscriber loading levels, historical loading levels and the system capacity, the SYM system performs operations that manage use of the available spectrum according to the operating goals of the system operator.

One particular operating goal of a system operator is to increase revenue generated by the system. To increase revenue generation from an installed wireless infrastructure, the SYM system manages the system operator's subscriber priorities and spectrum resource allocation priorities by dividing the coverage area into corridors and managing the unique demand and supply characteristics over each corridor. Depending on subscriber preferences, network usage patterns, competitive pressures and the regulatory environment, a system operator can deploy the SYM system in a variety of ways so that service incentives and service disincentives are provided so as to reach desired loading patterns. Further, using the same and similar techniques, a system operator may use the SYM system to shift load from one time period to another time period.

However, nowhere in the above cited portion of Obhan are the terms "messaging platform" to be found. It appears that the Examiner has erroneously assumed that the "loading of subscribers" is equivalent to the "loading of a messaging platform," as that term is used in the present application. That the Examiner is incorrect is clear from the totality of the passage which refers to real-time usage (of active subscribers) and in potential usage (of inactive subscribers that have registered with the system) and that the passage refers to "available spectrum" and not to the availability or accessibility of any messaging platform storage system such as mail boxes or the like.

The Examiner's error in this regard is further evident in that Obhan's conventional messaging platform is described with respect to Figures 13 and 14 and the specification at column 19, line 22 through column 21, line 12, which the Examiner never cites to in rejecting specific elements of the present claims. The Examiner's passing reference to Fig. 14, with respect to claim 18, at page 11 of the Office Action, and citation to col. 19, lines 49-52, with respect to dependent claim 26, at page 16 of the Office Action do not teach or suggest any of the structural elements of claim 18. Instead, the Examiner cites to portions of Obhan which describe the operation of Obhan's claimed methods for managing subscriber load of a wireless communication system and which have nothing to do with Applicants' claimed features relating to an improved messaging platform.

Obhan simply does not teach or even suggest the structure and operation of Applicant's messaging platform as was detailed in Applicant's prior Amendment, dated September 22, 2006, at pages 11-17 which are hereby incorporated into this Response. Suffice it to say the Examiner has absolutely failed to identify any portion of Obhan which teaches (or even suggests) the structures and operations of present claims 18-38.

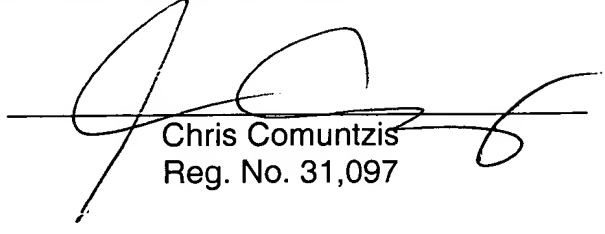
Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of claims 18-38, standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

BALE et al
Appl. No. 09/830,271
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Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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